

1993 ANNUAL REPORT

CONSUMER PROTECTION UNIT

MISSION STATEMENT

Three years ago the Legislature enacted Idaho's Telephone Solicitation and Pay-Per-Telephone Call Acts and modernized the Idaho Consumer Protection Act in order to protect both consumers and businesses against unfair or deceptive acts in trade and commerce, and to provide efficient and economical procedures to secure such protection. The Consumer Protection Unit, charged with enforcement of these Acts, seeks to fulfill this charge through education, mediation, and enforcement efforts.

HISTORY

The Consumer Protection Unit was first established in 1973 when the Idaho Legislature enacted the Idaho Consumer Protection Act. At that time it was a full division within the Attorney General's Office. The Unit was disbanded by the Legislature in the early 1980s, and was started up again in 1987 with a staff of two. Because of the growing demand for its services and the benefits it provides to Idaho consumers and businesses, the Unit now has grown to a staff of ten people.

APPLICABLE LAWS

The Consumer Protection Unit enforces and operates pursuant to the Idaho Consumer Protection Act, codified at Title 48, Chapter 6, Idaho Code, the Idaho Consumer Protection Rules, codified at IDAPA 04.02.01000 et seq., the Idaho Telephone Solicitation Act, codified at Title 48, Chapter 10, Idaho Code, the Idaho Pay-Per-Telephone Call Act, codified at Title 48, Chapter 11, Idaho Code, the Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules, codified at IDAPA 04.02.02000 et seq., and the Idaho Antitrust Act, codified at Title 48, Chapter 1, Idaho Code.

The Unit also enforces several provisions of other statutes, including Idaho Code Section 18-3101's provisions dealing with chain and pyramid distribution schemes, Idaho Code Section 26-2505's provisions dealing with loan brokers, and Idaho Code Section 67-1401's provisions dealing with nonprofit corporations. Finally, the Unit is often asked for information and advice concerning other laws, such as Idaho's Lemon Law Act, codified at Title 48, Chapter 9, Idaho Code, and Idaho's Landlord/Tenant and Mobile Home Park Acts, codified, respectively, at Titles 6 and 55, Chapters 3 and 20, Idaho Code.

STAFFING

There are two deputy attorneys general, three investigators/paralegals, four consumer specialists, and one secretary.

MEASURES OF GROWTH AND SUCCESS

The Consumer Protection Unit continues to receive large numbers of consumer complaints and inquiries, and continues to experience significant growth in the amount of consumer restitution obtained, civil penalties, fees, and costs recovered, and enforcement actions taken. The growth is a measure of the Unit's success in serving the public and enforcing the applicable Acts and Rules. The following chart displays this growth and success:

Activity	1987	1988	1989	1990	1991	1992	1993	% over 1992
Complains/Inquires	1088	1428	1243	1614	2525	3367	3130	-7%
Dollars Claimed Lost	\$713,967	\$416,599	\$735,731	\$680,172	\$489,467	\$831,437	\$1,042,885	25%
Dollars recovered by CPU	\$2,395	\$14,054	\$22,201	\$130,469	\$263,435	\$394,376	\$986,571	150%
Civil Penalties, Fees, and Costs recovered	\$0	\$0	\$ 0	\$ 500	\$56,500	\$127,845	\$243,571	91%
Enforcement Actions **	0	4	6	9	62	66	100	52%
Telemarketers Registered	N/A	N/A	N/A	N/A	N/A	18	41	128%

** Includes Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive and Other Relief obtained

The complaint categories that received the largest number of complaints in 1993 are:

Telemarketing: 633

Mail Orders: 292

Automobile Advertising, Sales, and Repairs: 281

Multi-level Marketing: 252

Home Construction: 76

Gas Prices: 42

Living Trusts: 38

For the past three years the Consumer Protection Unit has recovered more money for Idaho residents than the Legislature has appropriated from its general fund. Unit staff salaries and benefits cost the taxpayer approximately \$250,000 for the 1993-94 fiscal year. Another \$160,000 was expended out of the consumer protection account for consumer education, the salaries of four staff members, and litigation and investigative expenses.

1993 SUCCESS STORIES

This year the Consumer Protection Unit secured more restitution for consumers, engaged in more enforcement actions, and educated more people about consumer protection issues than ever before.

Enforcement

The Consumer Protection Unit settled its lawsuit against Fleet Mortgage Company. The Unit contended in its lawsuit, filed with twenty-five other states, that Fleet violated state and federal laws by keeping excess payments made by homeowners in their escrow accounts. The settlement resulted in refunds and reduced mortgage premiums estimated at \$769,000 for thousands of Idaho Fleet mortgage holders as well as cessation of the practices in dispute.

The Consumer Protection Unit also settled its dispute with Bill Whittom, doing business as Farm Times for misrepresenting the periodical's circulation size and for preparing fake invoices. The settlement resulted in the cessation of the unlawful practices, \$216,000 of consumer restitution in the form of free advertising, and \$25,000 in fees and costs.

The Consumer Protection Unit obtained two judgments in excess of \$40,000 against Professional Marketing, Inc., a Las Vegas, Nevada telemarketer and its owner. In addition the judgments prohibit the company from doing any further telemarketing in the state.

Over ninety other actions were brought, and judgments, orders and assurances of voluntary compliance obtained against telemarketers, automobile dealers, home repair businesses, and prize promoters. The total amount of penalties, fees, restitution, and expenses recovered from these actions exceed \$1,000,000.

The Unit has also participated in many multi-state actions with the offices of other state attorneys general against various businesses for violations of Idaho's Consumer Protection Act and federal and state antitrust laws. The actions have or will result in tens of thousands of dollars in consumer restitution for Idaho residents and businesses and significant protection against further unlawful conduct.

These multi-state actions include settlements with Equifax, Inc. for alleged unlawful credit reporting practices; T.C.I. and Time Warner and other members of the cable industry for alleged unlawful antitrust practice; the Keds Corporation for alleged unlawful antitrust practices; and Sandoz Pharmaceuticals, Inc., for alleged advertising misrepresentations.

The Consumer Protection Unit also worked to protect the health and safety of Idaho's children. The Unit, with other states, successfully petitioned the United States Consumer Product Safety Commission to require special packaging for mouthwashes with alcohol. The Unit, also in conjunction with other states, petitioned the Food and Drug Administration to require warning labels on iron supplements. The serious health hazards to young children that these products pose were cited and documented. The Unit joined 15 other states in issuing a preliminary report recommending that fast food restaurants implement measures to ban smoking in their restaurants. The Unit took this action as a result of the particular health risk that cigarette smoke poses to children, and the fact that the fast food industry directs much of its marketing toward attracting children.

Education

Consumer Protection Unit personnel gave eighty speeches to over 4,000 people in locations throughout the state. In August the Unit staffed a booth at the Western Idaho Fairgrounds. Thousands of people visited the booth, and members of the Unit distributed over 12,000 information packets and materials.

In January 1993, the Consumer Protection Unit produced and aired a three-month television and radio campaign, aimed at helping consumers avoid becoming victims of consumer fraud. The program was very well received and was aired with the cooperation of the Idaho Broadcasters Association.

The Consumer Protection Unit was the lead state in developing with 29 other states a comprehensive package of television, radio, and print spots on consumer protection issues. The purpose of this multi-state effort was to pool resources, experience, and expertise in jointly producing these materials. The spots were introduced in October 1993 and are set for air time in January and February 1994. These spots are also being aired with the cooperation of the Idaho Broadcasters Association.

The Consumer Protection Unit prepared and disseminated 9,000 folders with consumer information targeted toward Idaho senior citizens. Unit staff also spoke at senior centers around the state. Senior citizens in Idaho, as well as the rest of the country, are prime targets for unscrupulous businesses and people.

The Consumer Protection Unit prepared and distributed to every automobile dealer in the state the Attorney General's Guidelines for Motor Vehicle Advertising in Idaho. The Guidelines have received national recognition and praise for their quality and usefulness.

The Consumer Protection Unit prepared and released 28 news releases. Unit staff also did scores of television and radio interviews about consumer related issues.

The Consumer Protection Unit is proud to report that all of its consumer education efforts--all television and radio spots produced, all pamphlets, brochures, and tip sheets written and published, and all speeches, travel, and training seminars attended--were done so at no taxpayer expense; monies from the consumer protection account--into which all civil penalties, fees, and costs are deposited--were used to fund all of these activities.

The Consumer Protection Unit is hopeful that the reduction in consumer complaints is a result in part of its educational efforts. The Unit intends to continue with its consumer education efforts.

RULES AND LEGISLATION

The Consumer Protection Unit, working with many charitable groups throughout Idaho, proposed Idaho's Charitable Solicitations Act. The purpose of the Act is to combat charitable solicitation fraud. In a second bill, the Unit proposed technical amendments to the Idaho Consumer Protection Act. The Consumer Protection Unit was successful in having the Legislature adopt and the Governor sign both pieces of legislation.